

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUDITH J. LOACH
Deputy Attorney General
4 State Bar No. 162030
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
6 Facsimile: (415) 703-5480
E-mail: Judith.Loach@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:

13 **VERONICA C. AVILA**

14
15 Applicant.

Case No. **2013-166**

16 **STATEMENT OF ISSUES**

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
20 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about May 23, 2011, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nurse License from Veronica C. Avila
24 ("Applicant"). On or about March 20, 2011, Veronica Avila certified under penalty of perjury to
25 the truthfulness of all statements, answers, and representations in the application. The Board
26 denied the application on August 19, 2011.

27 **JURISDICTION**

28 3. This Statement of Issues is brought before the Board of Registered Nursing

1 ("Board"), Department of Consumer Affairs, under the authority of the following laws. All
2 section references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 2761 of the Code states:

4 "The board may take disciplinary action against a certified or licensed nurse or deny an
5 application for a certificate or license for any of the following:

6 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

7 ...

8 "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
9 against a health care professional license or certificate by another state or territory of the United
10 States, by any other government agency, or by another California health care professional
11 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
12 action.

13 ..."

14 CAUSE FOR DENIAL OF LICENSE APPLICATION

15 (Prior Disciplinary Action)

16 5. Applicant's Registered Nurse License application is subject to denial under Code
17 section 2761, subdivisions (a)(4), based on a prior disciplinary action. The facts in support of this
18 cause for denial are as follows:

19 a. On or about September 15, 2009, the Board of Vocational Nursing and Psychiatric
20 Technicians filed an Accusation against Applicant entitled *In the Matter of the Accusation*
21 *Against Veronica Avila*, Vocational Nurse License No. 169839, Case No. VN-2008-1603. The
22 Accusation in part alleged that Applicant committed gross negligence and incompetence in that
23 she failed to follow the policy and procedure of the HIV/AIDS Program at the Santa Clara
24 County Public Health Department. As a result, Applicant advised a client that his HIV test result
25 was negative, when in fact his HIV test result was positive.

26 b. An administrative hearing was held on October 12, 2010, in Oakland, California,
27 before Administrative Law Judge ("ALJ") Steven C. Owyang (OAH Case No. 2009110291).

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1 c. On or about March 10, 2011, ALJ Owyang issued a Proposed Decision, finding in
2 relevant part that Applicant's license as a Licensed Vocational Nurse was subject to discipline for
3 gross negligence and incompetence pursuant to Business and Professions Code section 2878,
4 subdivision (a)(1) [unprofessional conduct by committing gross negligence and incompetence].
5 Applicant was placed on three (3) years probation and ordered to reimburse the Board for its
6 investigative and prosecution costs.

7 d. The Proposed Decision was adopted by the Board of Vocational Nursing and
8 Psychiatric Technicians as the final Decision on April 21, 2011, with the Decision becoming
9 effective on May 21, 2011.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

- 13 1. Denying the application of Veronica C. Avila for a Registered Nurse License;
14 2. Taking such other and further action as deemed necessary and proper.

15 DATED: September 6, 2012

16 Louise R. Bailey
17 LOUISE R. BAILEY, M.Ed., RN
18 Executive Officer
19 Board of Registered Nursing
20 Department of Consumer Affairs
21 State of California
22 Complainant

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